

Norman C. Kleinberg
Theodore V. H. Mayer
William J. Beausoleil
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004-1482
(212) 837-6000

Paul F. Strain
M. King Hill, III
David J. Heubeck
VENABLE LLP
Two Hopkins Plaza, Suite 1800
Baltimore, Maryland 21201
(410) 244-7400

Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: FOSAMAX PRODUCTS
LIABILITY LITIGATION

This Document Relates to:

Carrie Smith, et al.

v. Merck & Co., Inc., et al.

Case No: 1:07-cv-9564-JFK

MDL NO. 1789
1:06-md-1789 (JFK)

**NOTICE OF MOTION OF DEFENDANT MERCK & CO., INC. TO DISMISS THE
CLAIMS OF PLAINTIFF PATRICE BALLUM
WITH PREJUDICE FOR FAILURE TO PROVIDE PLAINTIFF PROFILE FORM**

PLEASE TAKE NOTICE that, upon the Notice of Motion of Defendant Merck & Co., Inc., the Declaration of Theodore V. H. Mayer, and the accompanying Memorandum of Law in Support of its Motion to Dismiss with Prejudice for Failure to Provide Plaintiff Profile Form, Defendant Merck & Co., Inc. will move this Court before the Honorable Judge John F. Keenan, in the United States Courthouse for the Southern District of New York, for an Order

dismissing the claims of Plaintiff Patrice Ballum with prejudice for failure to provide any response to the Plaintiff Profile Form as required by Case Management Order No. 3.

Dated: New York, New York

April 16, 2008

Respectfully submitted,

HUGHES HUBBARD & REED LLP

By: _____/s/

Norman C. Kleinberg
Theodore V. H. Mayer
William J. Beausoleil

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